

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3155 OF 2005

JUDGMENT:

This appeal is filed by the appellants-claimants under Section 173 of the M.V. Act, aggrieved by the order, dated 19.08.2005, in O.P.No.354 of 2002, passed by the Motor Accident Claims Tribunal-cum-District Judge, Adilabad, wherein the petition filed for grant of compensation of Rs.15,00,000/- consequent to the death of the deceased-K.Bhojanna, was dismissed.

2. Heard the learned counsel for the appellants-claimants, the learned standing counsel for the Insurance Company and perused the record.

3. Learned counsel for the appellants-claimants would contend that the deceased died due to rash and negligent driving of jeep bearing No. AP 1 C 3345 by its driver.

4. To substantiate the same, the claimants examined wife of the deceased as P.W.1 and also examined P.W.2-V.Sambashiva Rao, who is said to be an eye-witness to the occurrence of the accident and got marked Ex.A1-Copy of FIR, dated 20.2.1999, Ex.A2-CC of PME report, Ex.A3-CC of inquest report, Ex.A4-xerox copy of insurance policy, Ex.A5-salary certificate, Ex.A6-Driving licence of deceased and Ex.A7-CC of FIR, dated 1.5.1999.

5. On behalf of the Insurance Company, no oral evidence was adduced, but Ex.B1-copy of 161 Cr.P.C. statement of P.W.2, Ex.B2-CC of final report, Ex.B3-CC of

rough sketch and Ex.B4-CC of docket order were got marked.

6. The specific case of the appellants-claimants is that on 19.2.1999 when the deceased was going on his motorcycle, a jeep bearing No. AP 1 C 3345 driven by its driver came in opposite direction with high speed in a rash and negligent manner and dashed against the motorcycle of the deceased, due to which, the deceased suffered head injury and while undergoing treatment, he succumbed to the injuries. P.W.2 said to have witnessed the occurrence of the accident. He supported the case of the appellants. P.W.1 is not an eye-witness to the occurrence of the accident. Exs.A1 and A3, which are copy of FIR and CC of inquest report are contra to the pleadings and there is no mention of rashness or negligence on the part of the driver of the jeep bearing No. AP 1 C 3345. In Exs.A1 and A3, there is no mention that the jeep dashed against the deceased, due to which, the deceased received injuries and succumbed to those injuries. There is specific mention in the above mentioned documents that the deceased did not control the vehicle, fell down, suffered injuries and later succumbed to the injuries. Ex.B1 is the 161 Cr.P.C. statement of P.W.2. It does not support the case of the appellants and it runs contra to their case. When the documentary evidence is contra to the pleadings of the case, it is not appropriate to hold that the deceased died due to rash and negligent driving of the jeep bearing No. AP 1 C 3345 by its driver. The Tribunal had analyzed the entire oral and documentary evidence on record and gave finding to that effect. As per the evidence on record, there is no involvement of the jeep bearing No. AP 1 C 3345 in the said accident. No compensation can be assessed and

granted against the owner and insurer of the said jeep. They are only parties to the claim petition. The Tribunal had dealt with all the aspects of the case in true sense and assigned reasons. There are no circumstances to warrant interference of this Court. Therefore, the appeal is devoid of merit and is liable to be dismissed.

7. Accordingly, the Appeal is dismissed confirming the order, dated 19.08.2005, in O.P.No.354 of 2002, passed by the Motor Accident Claims Tribunal-cum-District Judge, Adilabad. No order as to costs. Miscellaneous petitions, if any pending in this appeal shall stand closed.

DATED: 21-06-2018
Hsd

DR.SHAMEEM AKTHER, J

